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OCT 30 2006

State of South Carolina^{Per} _____
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

October 27, 2006

Ms. Virgie R. Chambers, Director
Office of School Based Health Finance
State Department of Education
1429 Senate Street
Columbia, South Carolina 29201

Dear Ms. Chambers:

We are writing to follow-up to our previous letter regarding the discontinuation of Medicaid coverage for Applied Behavioral Therapy Services. The Department of Health and Human Services has received numerous inquiries from parents and advocates regarding this issue. Based on the questions and comments received, we felt it prudent to further clarify the situation regarding the decision rendered by the Centers for Medicare and Medicaid Services.

Enclosed is a copy of a letter mailed to the parents of children that received Applied Behavioral Therapy Services during the last nine months. This letter outlines the rationale behind the termination of Medicaid coverage for these services.

As mentioned in our previous correspondence, we have asked CMS to extend the transition period to discontinue these services from December 31, 2006, to June 30, 2007. This request has not been approved to date. However, since the timing of this action falls in the middle of a school year, we will work with local education agencies to continue state funding for children currently receiving Applied Behavioral Therapy Services until June 30, 2006. After this date, funding of these services will become the responsibility of each local education agency.

Thank you for your commitment to improving the health of children of South Carolina. If you have any questions or if we can be of further assistance, please contact Sheila Mills at (803) 898-2565.

Sincerely,

A handwritten signature in black ink that reads "R. M. Kerr".

Robert M. Kerr
Director

RMK:lm

Office of the Director
P. O. Box 8206 Columbia South Carolina 29202-8206
(803) 898-2500 Fax (803) 255-8235



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Dear Parent(s):

Our records indicate that your child currently receives school-based Applied Behavioral Therapy Services (ABTS) under the Medicaid program. Therefore, I want to write to you directly concerning Medicaid's recent decision to discontinue payment for these services.

The South Carolina Medicaid program has covered this therapy over the last eight years under a broadly defined section of our state plan. During the past year, the Centers for Medicare and Medicaid Services (CMS) has questioned the state regarding these services. On August 29, 2006, the state received notice from CMS that federal matching funds would no longer be available for these services as of December 31, 2006. CMS' reasoning behind this decision was that the current state plan violated the "comparability" standard by targeting subsets of groups with certain conditions. They also believed the plan violated the "freedom of choice" standard by restricting providers only to those employed or contracted by the local education agency. However, CMS left open the possibility that the services could be provided under a waiver of these standards.

Unfortunately, we were notified by CMS on September 19, 2006, that the provision of ABTS in a school setting failed to meet established criteria for approval as a waiver program. Specifically, CMS indicated that in accordance with §1915 (c)(5)(C) of the Social Security Act, these services appeared to duplicate services that should be provided by the schools under the Individuals with Disabilities Education Act (IDEA). We have asked CMS to extend the transition period to discontinue these services from December 31, 2006, to June 30, 2007. This request has not been approved to date.

We are disappointed with this outcome; however, we are compelled to abide by the decision made by the federal government regarding funding for these services. We recognize your child depends upon these vital services. Since the timing of this action falls in the middle of a school year, this agency is taking steps to continue state funding for children currently receiving ABTS until June 30, 2007. After this date, funding of these services will become the responsibility of each local school district.

ABTS may still be available to your child even though they cannot be funded by Medicaid. It is our understanding that if ABTS are listed on your child's Individualized Education Program (IEP) that they should be provided under IDEA. I would suggest that you contact your local school

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district to determine if ABTS are included in your child's IEP and to discuss the continuation of these services under IDEA.

You may also be aware that the State General Assembly approved a pilot project to treat pervasive developmental disorder which includes autism. Our agency is coordinating with the Department of Disabilities and Special Needs (DDSN) to pursue a Medicaid waiver to assist in the funding of this program. Medicaid funding should be available through this waiver for pilot services rendered in a home-based setting. However, in accordance with the federal government's decision on ABTS, Medicaid will not fund such services in a school-based setting. DDSN is the agency responsible for accepting applications and identifying the children that will receive these services.

I apologize for the complexity of this letter, but do hope that it is beneficial to you in explaining our recent actions. Though I regret that we could not be of more assistance I trust that by extending coverage through June we will help lessen the impact of this change.

Sincerely,

A handwritten signature in black ink, appearing to read "R.M. Kerr", written over the printed name.

Robert M. Kerr
Director

RMK/